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August 27, 2020

MEMO ENDORSED

VIA ECF/CM

Hon. Sidney H. Stein
U.S. District Court
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *U.S.A. v. Xing Lin*
11-cr-114(SHS)

Dear Judge Stein:

I represent Xing Lin in this matter and submit this letter-motion to request a 90-day adjournment of the September 14, 2020 sentencing. This is the second such request and the government does not object to the proposed extension of time.

Mr. Lin's case was remanded from the Second Circuit for resentencing following the vacatur of his 18 U.S.C. § 924(j) conviction. Following a failed guilty plea attempt, subsequent trial and conviction, Mr. Lin's prior counsel submitted a seven-page sentencing letter that focused largely on the trial testimony, arguing that the record created questions of residual doubt concerning Mr. Lin's responsibility for the underlying acts. ECF No. 74. A defense sentencing letter-reply again addressed only the trial evidence. ECF No. 76. No meaningful information about Mr. Lin's history and characteristics or analysis of the various sentencing factors set forth under 18 U.S.C. § 3553(a) were presented. Mr. Lin was sentenced to a term of life in prison in September 2014.

As previously noted, no Court has yet been presented with the necessary information about Mr. Lin's history and characteristics which all must be weighed when fashioning a sentence that is sufficient but not greater than necessary to achieve the goals of the federal sentencing regime. Shortly after Mr. Lin was moved from prison in West Virginia to the Metropolitan Detention Center in Brooklyn, all legal and social visiting was suspended in light of the covid-19 crisis. For the past five months, it has not been possible to meet in person with Mr. Lin and the effort to collect relevant materials and information for sentencing has been substantially hindered by the public health crisis.

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In order to adequately present the necessary information about Mr. Lin, the defense needs additional time to gather and present information and materials relevant to sentencing, including pre-sentencing meetings with Mr. Lin (requiring the assistance of an interpreter); collateral interviews with his family members and friends; and obtaining relevant documents from third parties (such as the Bureau of Prisons, hospitals and others).

Additionally, given the very serious sentencing exposure that Mr. Lin faces, it is critical that his sentencing hearing proceed in person, with his family and friends allowed to attend. Given the various restrictions and limitation on in-person appearances in the Southern District of New York, it appears uncertain that such a hearing could be conducted on the currently scheduled sentencing date of September 14, 2020.

In order to provide sufficient time to prepare the defense sentencing package, and given the seriousness of the charges which previously resulted in a life sentence, I respectfully request that this Court adjourn the current sentencing from September 14, 2020 until a date on or after mid-December 2020. As noted above, this is the second such request and the government does not object to it.

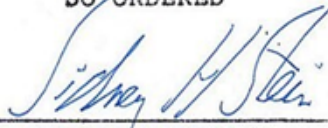
Respectfully submitted,

/s/ Megan W. Benett

cc: All counsel of record via ECF/CM

The resentencing is adjourned to January 28, 2021, at 11:00 a.m. The defense submissions are due by January 14, the government's submissions are due by January 21.

**Dated: New York, New York
August 28, 2020**

SO ORDERED

SIDNEY H. STEIN
U.S.D.J.